



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FVI
See p. 6, 7
Bennett

JAN 18 1984

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Instructions for Promulgating the National
Priorities List Update

FROM: *Lee M. Thomas*
Lee M. Thomas
Assistant Administrator

TO: Regional Administrators
Regions I-X

RECEIVED
JUN 21 1989
SUPERFUND BRANCH

INTRODUCTION

The first update to the National Priorities List (NPL) was published as a proposed rule on September 8, 1983, and promulgation of the NPL update is scheduled for May 1984. The purpose of this memorandum is to define procedures and the Regional responsibilities for the final rulemaking on the first NPL update. In addition to the final rulemaking on the first update, we also plan to develop a proposed rule to delete sites in May. In order to meet that deadline, you must forward your candidates for deletion along with the required documentation by February 17, 1984. Regional responsibilities for that activity are outlined in a draft memorandum entitled "Procedures for Deleting Sites from the National Priorities List," which was transmitted to the Regions for comment on December 6, 1983. You will receive final guidance on the procedures and criteria for deleting sites shortly.

We are currently planning to publish a second update as a proposed rule in July 1984. The Agency is evaluating various approaches for including Federal facilities on that second update. The Office of Solid Waste and Emergency Response will issue guidance documents setting forth the Agency's policy on Federal facilities and the procedures for the second update as soon as possible.

MANAGEMENT PROCESS

As specified in the preamble to the NPL update proposal (48 FR 40674), the Hazardous Site Control Division of the Office of Emergency and Remedial Response (OERR) has received public

AR 10.1 0001

6347

4. No documents should be removed from the docket, even if they contain errors. Explanatory memos or notes may be inserted to correct such errors. Again, Regions must send a copy to the Headquarters docket.

Consultation with States During Rulemaking

State participation is certainly critical for developing the NPL. The Regions are encouraged to consult with the States whenever it is necessary to address technical questions that arise as the result of public comments or any other new information. In all cases the Regions are urged to solicit from the States the best technical data available on sites included in the proposed rulemaking. You should note that it is essential for the Agency to document the decision-making process and any public contacts that are relevant to that process. Any discussions between Regional and State staff that are relevant to our site specific determinations should be documented and placed in the public record. Where EPA has proposed a site on its own initiative, not based on data submitted by the State, contacts with the State regarding the appropriateness of the listing should be discouraged, just as contacts with potentially responsible parties are discouraged. If comment is received from States in such situations these too should be documented. Specific instructions on documenting comments and consultations are given below.

Contact with Public During Rulemaking

The NPL and the updates are developed as amendments to the National Contingency Plan, which is a Federal regulation. Therefore, all activities related to developing and modifying the NPL are rulemaking activities. In any discussion of the procedures for this rulemaking and the guidance for EPA's periodic updates of the NPL, it is important to review our policy regarding public contacts during rulemaking. Once a proposed rulemaking has been issued, the Agency will consider all comments in a fair and open manner. The formal process for doing this is the comment period announced in the proposal. The comment period ended on November 7, 1983, for the NPL Update. Contacts with commenters after the close of the comment period, while not prohibited, should be discouraged to the extent they relate to the proposed listings, although commenters are free to submit late written comments.

* Any Agency employee who discusses the substance of the proposed rulemaking with a member of the public must prepare and place in the docket a written memorandum describing the conversation. Such memoranda should contain sufficient detail to reflect all substantive issues, facts, or data, although a verbatim

*) transcript is not required. Where the contact is simply a description of EPA's schedule or procedures, or where EPA relates information that already is contained in the current docket, the contact need not be recorded. If you have any questions regarding the principles and procedures outlined above, contact Todd Gulick of the Office of General Counsel, FTS 382-7709.